IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

CHARTERED ACCOUNTANT REFEREBCE NO. 3 OF 2001

Institute of Chartered Accountants
of India, Indraprastha Marg,
New Delhi .. Petitioner

v/s.

Shri P.V.Mehta, FCA,
Chartered Accountant,
C-9, Anuprita, Veera Desai Marg,
Andheri (West),
Mumbai-400 058. .. Respondent

Dr. Virendra Tulzapurkar, senior counsel with Ms. S. Srikrishna i/by M/s. Kanga & Co. for petitioner.

None for respondent.

Mr.N.D.Salvi for Union of India.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 13th August, 2004

ORAL JUDGMENT (Per R.M.Lodha, J.)

The respondent Shri P.V.Mehta is a Chartered Accountant and member of the Institute of Chartered Accountants of India. In the disciplinary proceedings of the professional misconduct, the disciplinary committee found that the respondent was guilty of professional misconduct under clause 7 of part I of the second schedule read with sections 21 and 22 of the Chartered Accountants Act, 1949. The Council of the Institute of Chartered Accountants of India accepted the finding of the disciplinary committee and has recommended

to this court that the name of the respondent be removed from the register of members for a period of one month. This is how the reference is before us under section 21(5) of the Chartered Accountants Act, 1949.

2. The essence of the charge against the respondent is thus-

> "While investigating into cases of some fraudulent imports and clearances, the Complainant's Department had come across a case of issue of false certificates to several parties viz. M/s. United Mechanical Works, M/s. Laxmi Engineering Works & others for past exports, by the Respondent for monetary considerations, without verifying any supporting records or documents. On the strength of these false certificates, certain unscrupulous importers were able to obtain import licences, effect imports and clear these free of duty, perpetuating a fraud on Government revenue and depriving the Government of its legitimate revenue to the tune of crores of rupees.
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> In his statements dated 1st January, 1990, 2nd January, 1990 and 24th January, 1990, recorded under Section 108 of the Customs Act, 1962, the Respondent had confessed to the above and had also disclosed to have issued these certificates on the instance of another Chartered Accountant, Shri Kamal N. Kanodia. In his statements recorded under Section 108 of the Customs Act, 1962, Shri Kamal N. Kanodia, Proprietor of M/s. Kamal & Associates, Chartered Accountants had also confessed to his role in this affair as well as the fact that he also got a share in this deal of issuing false certificates.
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> According to the Complainant-Department, the above act of the Respondent would attract action against him under Clauses (2), (5), (6), (7), (8) & (9) of Part I and Clause (i) of Part II of the Second Schedule to the

Chartered Accountants Act, 1949."

3. In his examination before the disciplinary committee, the respondent admitted that he did not verify the books nor did he verify the turnover of the concerns viz. M/s. United Mechanical Works, M/s. Laxmi Engineering Works and others. His explanation was that he issued the export performance certificate relying upon Mr. Kanodia who is said to have referred to him that he was internal auditor of the concerns. According to the respondent, Mr. Kanodia brought the certificates and he signed the said certificates. Incidentally we may notice that in his statement recorded under section 108 of the Customs Act, the respondent admitted that the certificates were issued by him without verifying the relevant records or documents and that he did not examine the correctness expected of a professional chartered accountant. He signed the said certificates without knowing the contents to be true.

4. These facts are eloquent enough to hold the respondent guilty for professional misconduct under clause 7 of part I of second schedule and elaborate discussion is not necessary.

5. We, accordingly, concur with the finding recorded by the disciplinary committee and accepted by the Council that the respondent is guilty of

professional misconduct within the meaning of clause 7 of part I of the second schedule of the said Act.

6. The Council has recommended that the name of the respondent be removed from the register of members for the period of one month. The respondent has not chosen to appear to show-cause why the recommendation of the Council be not accepted by us. Looking to the misconduct committed by the respondent, we are satisfied that the recommendation of the Council cannot be said to be disproportionate.

7. We, accordingly, accept the recommendation of the Council and order that the name of the respondent be removed from the register of members for a period of one month.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)